



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

HOUSE BILL NO. 461

AS ENACTED

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adles

AN ACT relating to the provider tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 142.301 is amended to read as follows:

2 As used in KRS 142.301 to 142.363~~[142.359]~~:

3 (1) "Cabinet" means the Revenue Cabinet;

4 (2) "Charitable provider" means any provider which does not charge its patients for
5 health-care items or services, and which does not seek or accept Medicare,
6 Medicaid, or other financial support from the federal government or any state
7 government. The collaboration with public hospitals, agencies, or other providers in
8 the delivery of patient care; affiliation with public institutions to provide health-care
9 education; or the pursuit of research in cooperation with public institutions or
10 agencies shall not be considered as the receipt of government support by a
11 charitable provider;

12 (3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a
13 suitable container, appropriately labeled for subsequent administration or use by a
14 patient or other individual entitled to receive the prescription drug;

15 (4) "Entity" means any firm, partnership, joint venture, association, corporation,
16 company, joint stock association, trust, business trust, syndicate, cooperative, or
17 other group or combination acting as a unit;

18 (5) "Gross revenues" means the total amount received in money or otherwise by a
19 provider for the provision of health-care items or services in Kentucky, less the
20 following:

21 (a) Amounts received by any provider as an employee or independent contractor
22 from another provider for the provision of health-care items or services if:

23 1. The employing or contracting provider receives revenue attributable to
24 health-care items or services provided by the employee or independent
25 contractor receiving payment; and

- 1 2. The employing or contracting provider is subject to the tax imposed by
 2 KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, 142.361, or 142.363 or
 3 Section 2, 3, or 4 of this Act on the receipt of that revenue;
- 4 (b) Amounts received as a grant or donation by any provider from federal, state,
 5 or local government or from an organization recognized as exempt from
 6 federal income taxation under Section 501(c)(3) of the Internal Revenue Code
 7 for:
- 8 1. Research; or
- 9 2. Administrative or operating costs associated with the implementation
 10 and operation of an experimental program;
- 11 (c) Salaries or wages received by an individual provider as an employee of a
 12 charitable provider, the federal government, or any state or local governmental
 13 entity;
- 14 (d) Salaries or wages received by an individual provider as an employee of a
 15 public university for the provision of services at a student health facility; and
- 16 (e) Amounts received by an HMO on a fixed, prepayment basis as premium
 17 payments.
- 18 (6) "Health-care items or services" means:
- 19 (a) Inpatient hospital services;
- 20 (b) Outpatient hospital services;
- 21 (c) Nursing-facility services;
- 22 (d) Services of intermediate-care facilities for the mentally retarded;
- 23 (e) Physicians' services provided prior to July 1, 1999;
- 24 (f) Licensed home-health-care-agency services;
- 25 (g) Outpatient prescription drugs;~~[and]~~
- 26 (h) HMO services;
- 27 *(i) Regional community mental health and mental retardation services;*

1 (j) Psychiatric residential treatment facility services;

2 (k) Medicaid managed care organization services; and

3 (l) Supports for community living waiver program services;

4 (7) "Health-maintenance organization" or "HMO" means an organization established
5 and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;

6 (8) "Hospital" means an acute-care, rehabilitation, or psychiatric hospital licensed
7 under KRS Chapter 216B;

8 (9) "Hospital services" means all inpatient and outpatient services provided by a
9 hospital. "Hospital services" does not include services provided by a noncontracted,
10 university-operated hospital, or any freestanding psychiatric hospital, if necessary
11 waivers are obtained by the Cabinet for Human Resources from the Health Care
12 Financing Administration, or hospitals operated by the federal government;

13 (10) "Health services secretary" means the secretary of the Cabinet for Health Services
14 or that person's authorized representative;

15 (11) "Inpatient hospital services," "outpatient hospital services," "intermediate-care-
16 facility services for the mentally retarded," "physician services," "licensed home-
17 health-care-agency services," and "outpatient prescription drugs" have the same
18 meaning as set forth in regulations promulgated by the Secretary of the Department
19 of Health and Human Services and codified at 42 C.F.R. pt. 440, as in effect on
20 December 31, 1993;

21 (12) "Medicaid" means the state program of medical assistance as administered by the
22 Cabinet for Health Services in compliance with 42 U.S.C. sec. 1396;

23 (13) "Nursing-facility services" means services provided by a licensed skilled-care
24 facility, nursing facility, nursing home, or intermediate-care facility, excluding
25 intermediate-care facilities for the mentally retarded;

26 (14) "Person" means any individual, firm, partnership, joint venture, association,
27 corporation, company, joint stock association, estate, trust, business trust, receiver,

1 trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other
2 group or combination acting as a unit and the legal successor thereof;

3 (15) "Provider" means any person receiving gross revenues for the provision of health-
4 care items or services in Kentucky, excluding any facility operated by the federal
5 government; and

6 (16) "Secretary" means the secretary of the Revenue Cabinet or that person's authorized
7 representative.

8 (17) "Regional community mental health and mental retardation services programs"
9 means programs created under the provisions of KRS 210.370 to 210.480;

10 (18) "Psychiatric residential treatment facility" has the same meaning as provided in
11 KRS 216B.450; and

12 (19) "Supports for Community Living Waiver Program" has the same meaning as
13 provided in KRS 205.6317.

14 SECTION 2. A NEW SECTION OF KRS 142.301 TO 142.363 IS CREATED TO
15 READ AS FOLLOWS:

16 (1) A tax shall be imposed on regional community mental health and mental
17 retardation services at a uniform rate of up to four percent (4%) on gross
18 revenues received by each provider after July 1, 2005, for the provision of
19 regional community mental health and mental retardation services.

20 (2) The Department for Medicaid Services shall promulgate administrative
21 regulations to ensure that a portion of the revenues generated from the
22 assessment levied under this section and federal matching funds shall be used for
23 rate increases for regional community mental health and mental retardation
24 services to recognize cost increases, including current wage and benefit levels in
25 the industry.

26 (3) The remaining revenue generated from the assessment levied under this section
27 and federal matching funds shall be used to supplement the medical-assistance-

- 1 related general fund appropriations of the Department for Medicaid Services.
- 2 (4) On or before July 1, 2005, the Cabinet for Health Services, Department for
 3 Medicaid Services, shall submit an application to the Centers for Medicare and
 4 Medicaid Services to request any necessary waiver pursuant to 42 C.F.R. secs.
 5 433.56 and 433.68.
- 6 (5) If an application to the Centers for Medicare and Medicaid Services for a waiver
 7 is denied, the Department for Medicaid Services may resubmit the application
 8 with appropriate changes to receive an approved waiver.
- 9 (6) The assessment imposed pursuant to this section shall begin on July 1, 2005, but
 10 is not due and payable until rates are increased pursuant to this provision.
- 11 (7) The provisions of this section shall be null and void if the waiver or plan
 12 amendment to increase rates is not approved by the Centers for Medicare and
 13 Medicaid Services.
- 14 (8) If the assessment provided for in this section is disallowed by the Centers for
 15 Medicare and Medicaid Services, all collections under this section shall cease.
- 16 SECTION 3. A NEW SECTION OF KRS 142.301 TO 142.363 IS CREATED TO
 17 READ AS FOLLOWS:
- 18 (1) A tax shall be imposed on psychiatric residential treatment facility services at a
 19 uniform rate of up to five and one-half percent (5.5%) on gross revenues received
 20 by each provider after July 1, 2005, for the provision of psychiatric residential
 21 treatment facility services.
- 22 (2) The Department for Medicaid Services shall promulgate administrative
 23 regulations to ensure that a portion of the revenues generated from the
 24 assessment levied under this section and federal matching funds shall be used for
 25 rate increases for psychiatric residential treatment facility services to recognize
 26 cost increases, including current wage and benefit levels in the industry.
- 27 (3) The remaining revenue generated from the assessment levied under this section

1 and federal matching funds shall be used to supplement the medical-assistance-
 2 related general fund appropriations of the Department for Medicaid Services.

3 (4) On or before July 1, 2005, the Cabinet for Health Services, Department for
 4 Medicaid Services, shall submit an application to the Centers for Medicare and
 5 Medicaid Services to request any necessary waiver pursuant to 42 C.F.R. secs.
 6 433.56 and 433.68.

7 (5) If an application to the Centers for Medicare and Medicaid Services for a waiver
 8 is denied, the Department for Medicaid Services may resubmit the application
 9 with appropriate changes to receive an approved waiver.

10 (6) The assessment imposed pursuant to this section shall begin on July 1, 2005, but
 11 is not due and payable until rates are increased pursuant to this provision.

12 (7) The provisions of this section shall be null and void if the waiver or plan
 13 amendment to increase rates is not approved by the Centers for Medicare and
 14 Medicaid Services.

15 (8) If the assessment provided for in this section is disallowed by the Centers for
 16 Medicare and Medicaid Services, all collections under this section shall cease.

17 SECTION 4. A NEW SECTION OF KRS 142.301 TO 142.363 IS CREATED TO
 18 READ AS FOLLOWS:

19 (1) A tax shall be imposed on Medicaid managed care organization services at a
 20 uniform rate of up to five and one-half percent (5.5%) on gross revenues received
 21 by each provider after July 1, 2005, for the provision of Medicaid managed care
 22 organization services.

23 (2) The Department for Medicaid Services shall promulgate administrative
 24 regulations to ensure that a portion of the revenues generated from the
 25 assessment levied under this section and federal matching funds shall be used for
 26 rate increases for Medicaid managed-care-organization services to recognize cost
 27 increases, including current wage and benefit levels in the industry.

- 1 (3) No Medicaid managed care organization shall be guaranteed a repayment of its
 2 assessment in respect to 42 CFR 433.68, provided, however, in each fiscal year in
 3 which an assessment is implemented, the Department for Medicaid Services shall
 4 use the assessment proceeds to maintain actuarially sound rates as defined in the
 5 contract for the Medicaid managed care organizations to the extent permissible
 6 under federal and state law or regulation and without creating a guarantee to
 7 hold harmless, as those terms are used in 42 CFR 433.68 related to permissible
 8 health care-related taxes after the transition period.
- 9 (4) The remaining revenue generated from the assessment levied under this section
 10 and federal matching funds shall be used to supplement the medical assistance
 11 related general fund appropriations of the Department for Medicaid Services.
- 12 (5) On or before July 1, 2005, the Cabinet for Health Services, Department for
 13 Medicaid Services, shall submit an application to the Centers for Medicare and
 14 Medicaid Services to request any necessary waiver pursuant to 42 C.F.R. secs.
 15 433.56 and 433.68.
- 16 (6) If an application to the Centers for Medicare and Medicaid Services for a waiver
 17 is denied, the Department for Medicaid Services may resubmit the application
 18 with appropriate changes to receive an approved waiver.
- 19 (7) The assessment imposed pursuant to this section shall begin on July 1, 2005, but
 20 is not due and payable until rates are increased pursuant to this provision.
- 21 (8) The provisions of this section shall be null and void if the waiver or plan
 22 amendment to increase rates is not approved by the Centers for Medicare and
 23 Medicaid Services.
- 24 (9) If the assessment provided for in this section is disallowed by the Centers for
 25 Medicare and Medicaid Services, all collections under this section shall cease.

26 Section 5. KRS 142.313 is amended to read as follows:

27 For the purposes of the taxes imposed under KRS 142.303, 142.307, 142.309,~~and~~

1 142.311, 142.361, and 142.363 and Sections 2, 3, and 4 of this Act:

2 (1) If two (2) or more providers provide health care items or services as an entity, and
3 the entity is also a provider, then the entity shall be the taxable provider with regard
4 to gross revenues received for health care items and services provided through the
5 entity.

6 (2) If a provider who provides services through an entity receives gross revenues for the
7 provision of health care items and services from a source other than the entity, the
8 individual provider shall be the taxable provider with respect to that revenue.

9 Section 6. KRS 142.317 is amended to read as follows:

10 Charitable providers as defined in KRS 142.301 shall be exempt from the taxes imposed
11 by KRS 142.303, 142.307, 142.309, ~~and~~ 142.311, 142.361, and 142.363 and Sections
12 2, 3, and 4 of this Act, as well as the provisions of KRS 142.321, 142.333, 142.341, and
13 142.343 upon providing proper certification to the cabinet.

14 Section 7. KRS 142.321 is amended to read as follows:

15 (1) Every provider subject to the taxes imposed by KRS 142.303, 142.307, 142.309,
16 ~~and~~ 142.311, 142.361, and 142.363 and Sections 2, 3, and 4 of this Act that is not
17 registered with the cabinet pursuant to the provisions of KRS 142.221 shall, on July
18 15, 1994, file an application for a certificate of registration with the cabinet. A
19 certificate of registration filed in accordance with the provisions of KRS 142.221
20 shall remain valid for purposes of KRS 142.301 to 142.363~~142.359~~. Every
21 provider seeking to provide health care items or services in Kentucky for the first
22 time after July 15, 1994, shall, prior to providing these items or services, file an
23 application for a certificate of registration with the cabinet. The application shall be
24 in the form prescribed by the cabinet. The application shall be signed by the owner
25 if a natural person; in the case of an association or partnership, by a member or
26 partner; in the case of a corporation, by an executive officer or some person
27 specifically authorized by the corporation to sign the application.

1 (2) Every state board responsible for licensing or governing any provider subject to the
 2 tax imposed by KRS 142.303, 142.307, 142.309,~~[-and]~~ 142.311, 142.361, and
 3 142.363 and Sections 2, 3, and 4 of this Act shall, upon request by the cabinet,
 4 provide any information available to the licensing board necessary for the
 5 administration of the taxes imposed by KRS 142.303, 142.307, 142.309,~~[-and]~~
 6 142.311, 142.361, and 142.363 and Sections 2, 3, and 4 of this Act. The
 7 information shall be in the form required by the cabinet and shall be used by the
 8 cabinet for the sole purpose of administering the taxes imposed by KRS 142.303,
 9 142.307, 142.309,~~[-and]~~ 142.311, 142.361, and 142.363 and Sections 2, 3, and 4 of
 10 this Act.

11 (3) Every state board responsible for licensing or governing any provider subject to the
 12 tax imposed by KRS 142.303, 142.307, 142.309,~~[-and]~~ 142.311, 142.361, and
 13 142.363 and Sections 2, 3, and 4 of this Act shall, upon request by the cabinet,
 14 include the application for certificate of registration required by subsection (1) of
 15 this section with any new license issued. Application forms shall be provided by the
 16 cabinet to the licensing board.

17 Section 8. KRS 142.323 is amended to read as follows:

18 The taxes imposed by KRS 142.303, 142.307, 142.309,~~[-and]~~ 142.311, 142.361, and
 19 142.363 and Sections 2, 3, and 4 of this Act are due and payable to the cabinet monthly
 20 and shall be remitted on or before the twentieth day of the next succeeding calendar
 21 month.

22 Section 9. KRS 142.327 is amended to read as follows:

23 (1) On or before the twentieth day of the month following each calendar month, a
 24 return for the preceding month shall be filed with the cabinet in the form prescribed
 25 by the cabinet, together with payment of any tax due.

26 (2) A return shall be filed by every provider. The return shall be signed by the person
 27 required to file the return or a duly-authorized agent.

1 (3) The return shall show the gross revenues of the provider during the preceding
 2 reporting period. The return shall also show the amount of taxes for the period
 3 covered by the return and other information as the cabinet deems necessary for the
 4 proper administration of KRS 142.301 to 142.363~~[142.359]~~.

5 (4) The person required to file the return shall deliver the return, together with a
 6 remittance of the amount of the tax due, to the cabinet.

7 (5) For the purpose of facilitating the administration, payment, or collection of the taxes
 8 levied by KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, 142.361, and 142.363
 9 and Sections 2, 3, and 4 of this Act, the cabinet may permit or require returns to be
 10 filed or tax payments to be made other than as specifically required by the
 11 provisions of this section, except the cabinet shall not require or permit returns or
 12 payments to be filed or remitted more frequently than monthly.

13 Section 10. KRS 142.347 is amended to read as follows:

14 (1) Except when the health services secretary has been granted specific authority in
 15 KRS 142.301 to 142.363~~[142.359]~~, the cabinet shall administer the provisions of
 16 KRS 142.301 to 142.363~~[142.359]~~, and shall have all of the powers, rights, duties,
 17 and authority with respect to the assessment, collection, refunding, and
 18 administration of the taxes imposed by KRS 142.303, 142.307, 142.309,~~[and]~~
 19 142.311, 142.361, and 142.363 and Sections 2, 3, and 4 of this Act conferred
 20 generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and
 21 135.

22 (2) The Cabinet for Health Services shall be responsible for compliance with all federal
 23 reporting requirements regarding the taxes imposed by KRS 142.303, 142.307,
 24 142.309,~~[and]~~ 142.311, 142.361, and 142.363 and Sections 2, 3, and 4 of this Act.

25 (3) The Cabinet for Health Services shall fully cooperate with the cabinet and shall
 26 provide the cabinet with any information requested to carry out the provisions of
 27 KRS 142.301 to 142.363~~[142.359]~~.

1 Section 11. KRS 142.351 is amended to read as follows:

- 2 (1) A report of revenue receipts from the taxes imposed by KRS 142.303, 142.307,
 3 142.309,~~and~~ 142.311, 142.361, and 142.363 and Sections 2, 3, and 4 of this Act
 4 shall be provided on a quarterly basis by the cabinet to the health services secretary
 5 on or before the tenth day of the second month following the close of each fiscal
 6 quarter.
- 7 (2) It is the responsibility of each provider, subject to tax under KRS 142.303, 142.307,
 8 142.309,~~and~~ 142.311, 142.361, and 142.363 and Sections 2, 3, and 4 of this Act
 9 to register with the cabinet, and comply with the tax and reporting provisions of
 10 KRS 142.301 to 142.363~~[142.359]~~.

11 Section 12. KRS 142.353 is amended to read as follows:

- 12 (1) Whenever it is deemed necessary to insure compliance with the provisions of KRS
 13 142.301 to 142.363~~[142.359]~~, the cabinet may require any person subject to the
 14 taxes imposed by KRS 142.303, 142.307, 142.309,~~and~~ 142.311, 142.361, and
 15 142.363 and Sections 2, 3, and 4 of this Act to place security with it. The amount
 16 of the security shall be fixed by the cabinet but shall not be greater than three (3)
 17 times the estimated average liability of the provider or all providers in the same
 18 class as the provider, whichever is greater. This limitation shall apply regardless of
 19 the type of security placed with the cabinet.
- 20 (2) The amount of the security may be increased or decreased by the cabinet, subject to
 21 the limitations provided in subsection (1) of this section.
- 22 (3) (a) If necessary, the cabinet may sell the security at public auction in order to
 23 recover any tax, penalty, or interest due. However, security in the form of a
 24 bearer bond issued by the United States or any state or local governmental unit
 25 which has a prevailing market price may be sold by the cabinet at a private
 26 sale at a price not lower than the prevailing market price.
- 27 (b) 1. The cabinet shall provide notice by certified mail, sent to the last known

1 address as reflected in the records of the cabinet, or by delivery, to the
 2 person who placed the security with the cabinet of the date, time, and
 3 place of the sale.

- 4 2. Delivery means mailing the notice to the person it is addressed to,
 5 leaving the notice at his place of business with the person in charge of
 6 the place of business, or, if there is no one in charge, leaving the notice
 7 at a conspicuous place at the place of business. If the place of business is
 8 closed, or the person to be served has no place of business, leaving it at
 9 his home, with a person of suitable age and discretion residing in the
 10 home. Notice by certified mail must be postmarked no later than ten (10)
 11 days prior to the sale. Notice by delivery must be given no later than ten
 12 (10) days prior to the sale.

- 13 (c) Any amount in excess of the amount due the cabinet after the sale shall be
 14 returned to the person placing the security.

- 15 (4) The Commonwealth may bring an action for a restraining order or a temporary or
 16 permanent injunction to restrain or enjoin the operation of a provider's business
 17 until the security is obtained. The action may be brought in the Franklin Circuit
 18 Court or in the Circuit Court having jurisdiction over the provider.

19 Section 13. KRS 142.357 is amended to read as follows:

20 Notwithstanding any other provisions of KRS 142.301 to 142.363~~[142.359]~~, the
 21 president, vice president, secretary, treasurer, or any other person holding any equivalent
 22 corporate office of any corporation subject to the provisions of KRS 142.301 to
 23 142.363~~[142.359]~~ shall be personally and individually liable jointly and severally, for the
 24 taxes imposed under KRS 142.303, 142.307, 142.309,~~[and]~~ 142.311, 142.361, and
 25 142.363 and Sections 2, 3, and 4 of this Act. Neither the corporate dissolution or
 26 withdrawal of the corporation from the state nor the cessation of holding any corporate
 27 office shall discharge the liability imposed by this section. The personal and individual

1 liability shall apply to each and every person holding a corporate office at the time the
 2 taxes become or became due. No person will be personally and individually liable
 3 pursuant to this section if that person did not have authority in the management of the
 4 business or financial affairs of the corporation at the time the taxes imposed by KRS
 5 142.303, 142.307, 142.309, ~~and~~ 142.311, 142.361, and 142.363 and Sections 2, 3, and
 6 4 of this Act become or became due. "Taxes" as used in this section shall include interest
 7 accrued at the rate provided by KRS 131.010(6) and all applicable penalties and fees
 8 imposed under the provisions of KRS 142.301 to 142.363~~[142.359]~~ and KRS 131.180,
 9 131.440, and 131.990.

10 Section 14. KRS 205.640 is amended to read as follows:

11 (1) The commissioner of Medicaid services shall adopt a disproportionate share
 12 program consistent with the requirements of Title XIX of the Social Security Act
 13 which shall include to the extent possible, but not limited to, the provisions of this
 14 section.

15 (2) The "Medical Assistance Revolving Trust Fund" (MART) shall be established in
 16 the State Treasury and all provider tax revenues collected pursuant to KRS 142.301
 17 to 142.363~~[142.359]~~ shall be deposited in the State Treasury and transferred on a
 18 quarterly basis to the Department for Medicaid Services for use as specified in this
 19 section. All investment earnings of the fund shall be credited to the fund. Provider
 20 tax revenues collected in accordance with KRS 142.301 to 142.363~~[142.359]~~ shall
 21 be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the
 22 medical assistance-related general fund appropriations for fiscal year 1994 and
 23 subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600,
 24 the MART fund shall be exempt from any state budget reduction acts.

25 (3) (a) Beginning in state fiscal year 2000-2001 and continuing annually thereafter,
 26 provider tax revenues and state and federal matching funds shall be used to
 27 fund the disproportionate share program established by the commissioner of

1 Medicaid services. Disproportionate share funds shall be divided into three (3)
2 pools for distribution as follows:

- 3 1. Forty-three and ninety-two hundredths percent (43.92%) of the total
4 disproportionate share funds shall be allocated to acute care hospitals;
- 5 2. Thirty-seven percent (37%) of the total disproportionate share funds
6 shall be allocated to university hospitals; and
- 7 3. Nineteen and eight hundredths percent (19.08%) of the total
8 disproportionate share funds shall be allocated to private psychiatric
9 hospitals and state mental hospitals, with the allocation to each
10 respective group of hospitals established by the biennial budget.

11 If, in any year, one (1) or both university hospitals fail to provide state
12 matching funds necessary to secure federal financial participation for the
13 funds allocated to university hospitals under this subsection, the portion of the
14 funding allocation applicable to the hospital or hospitals that fail to provide
15 state matching funds shall be made available to acute care hospitals.

16 (b) The MART fund shall be used to compensate acute care hospitals, private
17 psychiatric hospitals, and university hospitals qualifying for the
18 disproportionate share program for uncompensated service provided by the
19 hospitals to individuals and families with total annual incomes and resources
20 up to one hundred percent (100%) of the federal poverty level, as determined
21 by the hospital pursuant to administrative regulations promulgated by the
22 Cabinet for Health Services in accordance with this section.

23 (c) An individual hospital shall receive distributions for indigent care provided by
24 that hospital that meets the guidelines established in paragraph (a) of this
25 subsection.

26 (d) Distributions to acute care and private psychiatric hospitals shall be made as
27 follows:

- 1 1. The department shall calculate an indigent care factor for each hospital
2 annually. The indigent care factor shall be determined by calculating the
3 percentage of each hospital's annual indigent care costs toward the sum
4 of the total annual indigent care costs for all hospitals within each
5 respective pool. For purposes of this paragraph, "indigent care costs"
6 means the hospital's inpatient and outpatient care as reported to the
7 department multiplied by the hospital's Medicaid rate, or at a rate
8 determined by the department in administrative regulation that, when
9 multiplied by the hospital's reported indigent care, is equivalent to the
10 amount that would be payable by the department under the fee-for-
11 service Medicaid program for the hospital's total reported indigent care.
- 12 2. Each hospital's annual distribution shall be calculated by multiplying the
13 hospital's indigent care factor by the total fund allocated to all hospitals
14 within the respective pool under paragraph (a) of this subsection.
- 15 a. Hospitals shall report uncompensated care provided to qualified
16 individuals and families with total annual incomes and resources
17 up to one hundred percent (100%) of the federal poverty level,
18 including care rendered to indigent persons age twenty-two (22) to
19 sixty-four (64) in a psychiatric hospital to the Cabinet for Health
20 Services on a quarterly basis. However, all data for care provided
21 during the state fiscal year shall be submitted no later than August
22 15 of each year.
- 23 b. The department shall use indigent care data for services delivered
24 from October 1, 1998, through September 30, 1999, as reported by
25 hospitals to calculate each hospital's indigent care factor for state
26 fiscal year 2000-2001. For state fiscal year 2001-2002 and each
27 year thereafter, the department shall use data reported by the

1 hospitals for indigent care services rendered for the twelve (12)
2 month period ending June 30 of each year as reported by the
3 hospital to the department by August 15 in calculating each
4 hospital's indigent care factor. The hospital shall, upon request by
5 the Cabinet for Health Services, submit any supporting
6 documentation to verify the indigent care data submitted for the
7 calculation of an indigent care factor and annual payment.

8 c. By September 1 of each year, the department shall calculate a
9 preliminary indigent care factor and preliminary annual payment
10 amount for each hospital, and shall notify each hospital of their
11 calculation. The notice shall contain a listing of each hospital's
12 indigent care costs, their indigent care factor, and the estimated
13 annual payment amount. Hospitals shall notify the department by
14 September 15 of any adjustments in the department's preliminary
15 calculations. The department shall make adjustments identified by
16 hospitals and shall make a final determination of each hospital's
17 indigent care factor and annual payment amount by October 1.

18 (e) For fiscal year 2000-2001 and continuing annually thereafter, the department
19 shall issue to each hospital one (1) lump-sum payment on October 15, or later
20 as soon as federal financial participation becomes available, for the
21 disproportionate share funds available during the corresponding federal fiscal
22 year.

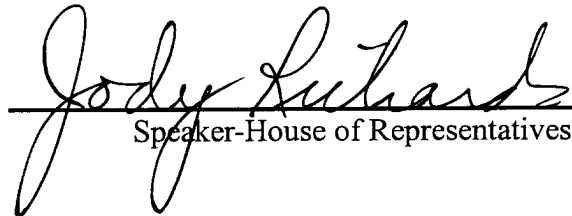
23 (4) Notwithstanding any other provision to contrary, total annual disproportionate share
24 payments made to state mental hospitals, university hospitals, acute care hospitals,
25 and private psychiatric hospitals in each state fiscal year shall be equal to the
26 maximum amount of disproportionate share payments established under the Federal
27 Balanced Budget Act of 1997 and any amendments thereto. Disproportionate share

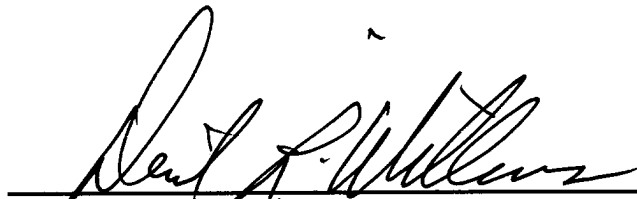
1 payments shall be subject to the availability of adequate state matching funds and
2 shall not exceed total uncompensated costs.

3 (5) Hospitals receiving reimbursement shall not bill patients for services submitted for
4 reimbursement under this section and KRS 205.641. Services provided to
5 individuals who are eligible for medical assistance or the Kentucky Children's
6 Health Insurance Program do not qualify for reimbursement under this section and
7 KRS 205.641. Hospitals shall make a reasonable determination that an individual
8 does not qualify for these programs and shall request the individual to apply, if
9 appropriate, for medical assistance or Kentucky Children's Health Insurance on
10 forms supplied by and in accordance with procedures established by the Department
11 for Medicaid Services. The hospital shall document any refusal to apply and shall
12 inform the patient that the refusal may result in the patient being billed for any
13 services performed. The hospital shall not be eligible for reimbursement if the
14 patient was eligible for medical assistance or Kentucky Children's Health Insurance
15 and did not apply. Hospitals receiving reimbursement under this section and KRS
16 205.641 shall not bill patients for services provided to patients not eligible for
17 medical assistance with family incomes up to one hundred percent (100%) of the
18 federal poverty level.

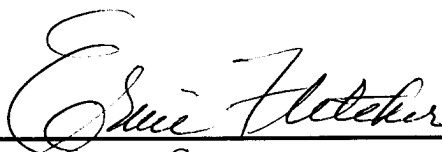
19 (6) The secretary of the Cabinet for Health Services shall promulgate administrative
20 regulations necessary, pursuant to KRS Chapter 13A, for the administration and
21 implementation of this section.

22 (7) All hospitals receiving reimbursement under this section and KRS 205.641 shall
23 display prominently a sign which reads as follows: "This hospital will accept
24 patients regardless of race, creed, ethnic background, or ability to pay."


Speaker-House of Representatives


President of the Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date 